

Exhibit 10

In the Matter Of:

NEW ENGLAND COMPOUNDING PHARMACY INC. PRODUCTS LIABILITY

DEPOSITION OF

LLOYD R. SABERSKI, M.D.

January 12, 2017



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NEW ENGLAND COMPOUNDING PHARMACY INC. PRODUCTS LIABILITY
LLOYD R. SABERSKI, M.D. on 01/12/2017

DEPOSITION OF

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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE NEW ENGLAND COMPOUNDING | MDL NO. 02419
PHARMACY, INC. PRODUCTS LIABILITY | DOCKET NO.
LITIGATION | 1:13-MD-2419-RWZ

THIS DOCUMENT RELATES TO:
All Actions

Deposition of LLOYD R. SABERSKI, M.D.
Baltimore, Maryland
Thursday, January 12, 2017
10:00 a.m.

Reported by: Angela McKinney, Court Reporter



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DEPOSITION OF
Pages 58..61

<p style="text-align: right;">Page 58</p> <p>1 have any reason to doubt that?</p> <p>2 A No.</p> <p>3 Q Do you see that Yale was a customer of NECC?</p> <p>4 A I know they were. I don't see it on this</p> <p>5 list right now, but it must be here somewhere.</p> <p>6 Q It's on page 11. It's the seventh one down,</p> <p>7 Yale New Haven Hospital.</p> <p>8 A Correct.</p> <p>9 Q And that's where you had worked, had</p> <p>10 privileges, et cetera?</p> <p>11 A Yes.</p> <p>12 Q And you'd consider them to be a reasonable</p> <p>13 health care provider?</p> <p>14 A Yes.</p> <p>15 Q Do you know how Yale ordered their drugs</p> <p>16 from NECC?</p> <p>17 A No.</p> <p>18 Q Were you involved ever with ordering drugs</p> <p>19 for Yale from NECC?</p> <p>20 A No.</p> <p>21 Q Would that be the pharmacy that would do</p> <p>22 that?</p>	<p style="text-align: right;">Page 60</p> <p>1 Q You said you were previously affiliated with</p> <p>2 Albany Medical Center?</p> <p>3 A Yes.</p> <p>4 Q Do you see them on this list?</p> <p>5 A I didn't look.</p> <p>6 Q If you flip to page 48, I think it's in</p> <p>7 alphabetical order by state. Is that the Albany Center</p> <p>8 for Pain Management?</p> <p>9 A Well, that has nothing to do with Albany</p> <p>10 Med. That's just a private practice in Albany.</p> <p>11 Albany Medical Center Hospital Cardiology</p> <p>12 Department.</p> <p>13 Q So they order drugs from NECC -- they are on</p> <p>14 the list?</p> <p>15 A They are on the list. This is a customer</p> <p>16 list. This doesn't necessarily mean they got product.</p> <p>17 Who knows what the list means? I mean obviously at</p> <p>18 some point NECC and those organizations may have been</p> <p>19 doing business.</p> <p>20 Q As you sit here today, you can't say one way</p> <p>21 or the other what business they did or what drugs they</p> <p>22 ordered?</p>
<p style="text-align: right;">Page 59</p> <p>1 A You would have to talk to Yale.</p> <p>2 Q You don't know one way or the other?</p> <p>3 A No.</p> <p>4 Q Okay. So it's possible they could have</p> <p>5 ordered drugs from NECC without patient-specific</p> <p>6 prescriptions, right?</p> <p>7 MR. COREN: Objection. It calls for</p> <p>8 speculation.</p> <p>9 A I doubt that.</p> <p>10 BY MR. KIRBY:</p> <p>11 Q As we sit here today, you can't say that you</p> <p>12 know that they did use patient-specific prescriptions</p> <p>13 when they ordered from NECC?</p> <p>14 MR. COREN: Objection.</p> <p>15 A It's required. You need to.</p> <p>16 BY MR. KIRBY:</p> <p>17 Q What evidence do you have one way or the</p> <p>18 other that they did or didn't?</p> <p>19 MR. COREN: Form objection.</p> <p>20 A I don't know anything about the practice at</p> <p>21 Yale.</p> <p>22 BY MR. KIRBY:</p>	<p style="text-align: right;">Page 61</p> <p>1 A Well, I can say one thing: They didn't get</p> <p>2 steroids.</p> <p>3 Q How do you know that?</p> <p>4 A Because there is a list of places that got</p> <p>5 steroids, and I think the number was 76 places.</p> <p>6 Q And the only reason I ask is are you</p> <p>7 recalling the list in your head and realizing that Yale</p> <p>8 didn't order MPA or Albany didn't order steroids? How</p> <p>9 can you say that?</p> <p>10 A Well, for sure Yale didn't. I don't know.</p> <p>11 We'd have to compare the list. There were only 76</p> <p>12 places that were involved in the steroids, and the</p> <p>13 issues that I've brought up in this case pertain to</p> <p>14 steroids and the national recall pertained to steroids.</p> <p>15 Q I was curious so I looked up -- I was</p> <p>16 interested in which top-ranked facilities were in</p> <p>17 Connecticut, medical facilities. And when I looked it</p> <p>18 up, it said Yale, which is good for you, Hartford</p> <p>19 Hospital, St. Francis Hospital and Middlesex Hospital</p> <p>20 were the top four on U.S. News and World Report. Would</p> <p>21 that be about what you would say?</p> <p>22 MR. COREN: Objection to form.</p>



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Pages 62..65

<p style="text-align: right;">Page 62</p> <p>1 A I don't know how they come up with the</p> <p>2 ratings, but it sounds appropriate that Yale is on the</p> <p>3 list.</p> <p>4 BY MR. KIRBY:</p> <p>5 Q They are reputable institutions?</p> <p>6 A Those are hospitals.</p> <p>7 Q Would it surprise you if all of them were on</p> <p>8 the customer list that we looked at on 1585-12.</p> <p>9 MR. COREN: Objection to form.</p> <p>10 A Doesn't surprise me one bit. They are on a</p> <p>11 customer list.</p> <p>12 BY MR. KIRBY:</p> <p>13 Q Have you ever done business with NECC?</p> <p>14 A Business?</p> <p>15 Q Have you ever had any interaction whatsoever</p> <p>16 with the New England Compounding Center?</p> <p>17 A Yes.</p> <p>18 Q Describe that.</p> <p>19 A A sales rep came to my office in the early</p> <p>20 2000s suggesting that we purchase compounded steroids</p> <p>21 from them. His marketing pitch was it was preservative</p> <p>22 free and it was cheaper. And I engaged him in a</p>	<p style="text-align: right;">Page 64</p> <p>1 something improper?</p> <p>2 A I really didn't understand the gravity of</p> <p>3 what I was saying no to. I think if I had to do it all</p> <p>4 over again, I certainly would have called up the</p> <p>5 appropriate authority. Clearly they were in the wrong</p> <p>6 and we at my office knew that it was wrong.</p> <p>7 Q Can we agree that NECC caused the</p> <p>8 contamination of the MPA?</p> <p>9 A Yes.</p> <p>10 Q We can agree that Dr. Bhambhani didn't cause</p> <p>11 the contamination?</p> <p>12 A No.</p> <p>13 MS. STEINER: Yes, you can agree that, no,</p> <p>14 she did not?</p> <p>15 A Yes.</p> <p>16 BY MR. KIRBY:</p> <p>17 Q Sorry. I thought we were having a moment.</p> <p>18 I understood.</p> <p>19 MS. STEINER: Just clarify that.</p> <p>20 BY MR. KIRBY:</p> <p>21 Q So we can agree that Dr. Bhambhani did not</p> <p>22 cause the contamination, right?</p>
<p style="text-align: right;">Page 63</p> <p>1 conversation as to why I would want to do that, given</p> <p>2 there are commercially-available products that are</p> <p>3 perfectly fine.</p> <p>4 Q Did you ask him why they were selling -- did</p> <p>5 you ask him why they were selling preservative-free</p> <p>6 products as a compounder if there were other</p> <p>7 commercially-available products available?</p> <p>8 A I did either directly or indirectly, but he</p> <p>9 was a salesperson who knew nothing. Essentially my</p> <p>10 office would have nothing to do with NECC because they</p> <p>11 were offering a product that was readily available.</p> <p>12 Q So in your estimation, that was improper to</p> <p>13 do, correct?</p> <p>14 A Yes.</p> <p>15 Q And did you ever report NECC to the</p> <p>16 Connecticut Board of Pharmacy?</p> <p>17 A I did not.</p> <p>18 Q Or the Massachusetts Board of Pharmacy or</p> <p>19 the FDA?</p> <p>20 A I did not.</p> <p>21 Q No one. Okay. Is there a reason why you</p> <p>22 didn't report them if you thought they were doing</p>	<p style="text-align: right;">Page 65</p> <p>1 A Yes, we can agree.</p> <p>2 Q Can we agree that NECC had a duty to its</p> <p>3 customers to provide safe products?</p> <p>4 A Yes.</p> <p>5 Q They had a duty to provide -- strike that.</p> <p>6 That they had a duty to accurately represent</p> <p>7 the safety and quality of its products to customers and</p> <p>8 potential customers?</p> <p>9 A Yes.</p> <p>10 Q Can we agree that in the summer and fall of</p> <p>11 2012 that NECC failed in its duty to do all those</p> <p>12 things that we just discussed?</p> <p>13 A I believe so.</p> <p>14 Q Do you believe that NECC violated the law in</p> <p>15 these cases?</p> <p>16 MR. COREN: Objection to form.</p> <p>17 A I'm not a lawyer. However, I believe they</p> <p>18 did.</p> <p>19 BY MR. KIRBY:</p> <p>20 Q I think I know your answer, but just to be</p> <p>21 clear, when you say you think they did, do you have any</p> <p>22 statutes or laws or regulations in mind from --</p>



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